

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BRENDAN PICHA and MAX J. HASTINGS,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

GEMINI TRUST COMPANY, LLC, TYLER
WINKLEVOSS and CAMERON WINKLEVOSS,

Defendants.

No. 1:22-cv-10922-NRB

Hon. Naomi Reice Buchwald

**DECLARATION OF JAMES R. SERRITELLA IN SUPPORT OF
BRENDAN PICHA, MAX J. HASTINGS, KYLE MCKUHEN,
JAMES DEREK TAYLOR, AND CHRISTINE CALDERWOOD'S
MOTION FOR APPOINTMENT AS LEAD PLAINTIFFS
AND APPROVAL OF KIM & SERRITELLA LLP AS LEAD COUNSEL**

James R. Serritella, declares, under penalty of perjury and pursuant to 28 U.S.C. § 1746,
that the following is true and correct:

1. I am a partner at Kim & Serritella LLP ("K&S"), which represents Plaintiffs in the above-captioned action and I respectfully submit this declaration in support of the motion of Brendan Picha ("Picha"), Max J. Hastings ("Hastings"), Kyle McKuhen ("McKuhen"), James Derek Taylor ("Taylor"), and Christine Calderwood ("Calderwood") (collectively, the "Investor Group") for: (i) appointment as lead plaintiffs; and (ii) approval of lead plaintiffs' selection of lead counsel.

2. Shortly after the Complaint was filed, K&S published notice of the suit. A copy of the notice published in Business Wire on December 29, 2022 is annexed hereto as **Exhibit 1**.

3. K&S is a boutique litigation firm comprised of several experienced and talented attorneys with years of experience in securities law and class-action litigation. A copy of K&S's firm resume is annexed hereto as **Exhibit 2**.

4. K&S is also considered to be a leading innovator in the crypto legal space. We have earned this reputation through diligent study of crypto as a technological, financial, legal, and cultural phenomenon. Our dedicated crypto team continually monitors crypto-related legal developments and current events, while cultivating a rich knowledgebase around centralized and decentralized finance, governance dynamics, blockchain technology, and the principles of the open-source movement—all of which are essential to a robust understanding of this novel and developing space. K&S's partners have been quoted on crypto matters in well-regarded publications and websites including the *New York Times*, the *Wall Street Journal*, Axios, and Law360.

5. In addition to our own expertise, we maintain productive relationships with leading experts in the fields of finance, software development, and digital investigation and security. This enables us to offer our clients the widest possible range of options and resources pertaining to their individual circumstances.

6. In keeping with our stated mission of putting clients first and aiding investors, K&S regularly represents clients who have been stolen from, hacked, or otherwise defrauded in the crypto space. For instance, K&S is co-lead counsel and I am the lead trial attorney in *Risley v. Universal Navigation Inc.*, No. 1:22-cv-02780-KPF (S.D.N.Y.), a cryptocurrency securities class action involving novel and complex issues of law concerning, among other things, the extent to which so-called decentralized exchanges and their owners are subject to securities laws. That action is currently pending before the Hon. Katherine Polk Failla. We have also successfully

achieved favorable settlements for clients in proceedings against crypto asset exchanges, cellphone carriers, and related entities.

7. Soon after the suspension of withdrawals from Gemini Earn on November 16, 2022, K&S was contacted by Picha and Hastings, the current named plaintiffs, who had already made significant efforts towards organizing disenfranchised Gemini Earn investors in open forums on Reddit and Telegram. These groups worked together to offer support, explore potential paths toward recovery, and collectively vet, discuss, and interview law firms who might be suitable representatives of their interests.

8. In alignment with the transparent and collaborative principles of the group, K&S was asked to host an open Q&A session, where I had the opportunity to give community members a sense of our firm, work, and relevant expertise, as well as answer general questions about legal procedures and class action lawsuits. Group members, in turn, have volunteered their stories and vital information, helping to build a full picture of the circumstances leading to their losses.

9. To my knowledge, K&S was the first to file a class action against Gemini Trust Company, LLC (“Gemini”) and the Winklevoss twins on behalf of Gemini Earn investors. We are cognizant of the responsibility and diligence required to serve as counsel to a proposed class whose definition may well apply to over 340,000 investors.

10. To date, our firm has been contacted by over 700 Gemini Earn investors who are unable to recover their funds. Of these, we have corresponded electronically with more than 500 and spoken directly with more than 100. Although many investors became aware of K&S through the Reddit and Telegram groups, we have also been contacted by numerous individuals who learned about K&S through word of mouth, other social media platforms, our press release, or news articles about our prior work.

11. The proposed class is comprised of Gemini Earn investors with losses representing a variety of digital assets, and values ranging from hundreds to millions of dollars, nearly all of whom appear to be retail investors, as opposed to institutional investors.

12. I have personally had multiple phone and video calls with all members of the Investor Group, both individually and collectively as a group. I am confident that the five members of the Investor Group are well-suited, capable, and informed representatives of the proposed class, and that each has a vested interest in helping to secure the best possible outcome for their fellow Gemini Earn investors. Picha and Hastings were the first members of the Investor Group to contact us. They drove the initial efforts to organize Gemini Earn investors towards collective action, and were particularly instrumental in vetting candidates for counsel. The other members of the Investor Group, McKuhen, Taylor, and Calderwood, are all prominent and active community members. From the time of their earliest outreach to K&S and as the group has grown, the Investor Group has demonstrated collaborative decision making, and been generous with their knowledge, research, time, and documentation, all of which has contributed significantly to the direction and strategy of the case.

13. Many Gemini Earn investors have made K&S aware of misinformation being spread concerning the legal procedures in class actions such as this, and in some case even deliberately sowing confusion as to which firm originated the complaint in this suit. It is unfortunate that there are **attorneys engaging in efforts to deliberately mislead Gemini Earn investors** by implying that their participation in the class action or their eligibility for reward is dependent on “signing up” or committing to an engagement agreement with their firm. K&S has made every effort to correct these misconceptions as we come upon them by providing educational materials on our website, through social media, and by personally answering any questions posed

to us directly. Should these lawyers appear in this action with lead plaintiff motions, K&S will provide the Court with additional information regarding their actions.

14. Investors in the crypto space deserve protections and legal options equal to those guaranteed by law to traditional investors. The members of the Investor Group are uniquely-qualified representatives of both the proposed class and of retail investors in general. In their collaborative, transparent processes and ability to leverage new platforms towards self-organization, they represent the promise of the emerging technologies that will likely shape much of the future; and in their significant losses, they represent the serious risks posed to everyday people if entities in the crypto space are permitted to evade their legal obligations.

I declare, under penalty of perjury, that the foregoing is true and correct to the best of my knowledge.

Dated: New York, New York
February 27, 2023

/s/ James R. Serritella
James R. Serritella